IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 332 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

JOHN HAMILTON CHRISTIAN

Versus

M.J. ENTERPRISES & ORS

Appearance:

MR PRASHANT G DESAI for Petitioner

MR RR MARSHALL for Respondent No. 1

NOTICE SERVED for Respondent No. 6

MR SJ DAVE, APP for Respondent No. 7

CORAM : MR.JUSTICE R.P.DHOLAKIA

Date of decision: 30/06/2000

ORAL JUDGEMENT

By way of filing this petitioner the petitioner has prayed to quash and set aside the judgment and order dated 6-12-90 passed by the learned Sessions Judge,

Surat, in Criminal Revision Application No.77 of 1989 confirming the order passed by the learned J.M.F.C. (Municipal) below Exh.5 in Municipal Case No. 288 of 1989.

2. The brief facts of the case are as under :

A complaint came to be filed by Surat Municipal Corporation through its employee John Hamilton Christian against the respondent Nos. 1 to 6 under Section 398 of the B.P.M.C. Act, 1949, directly before the learned J.M.F.C., Surat, which has been registered as Municipal Case No.288 of 1989. Pursuant to said complaint process has been issued and respondent Nos. 1 to 6 appeared through their learned advocate and submitted one application Exh.5 and requested the Court to direct the petitioner to provide them copies of panchnama and statement of witnesses, wherein the Court passed one line order that the prosecution to supply the said. Against that order the petitioner-Corporation preferred Criminal Revision Application No.77/89 before the learned Sessions Judge, Surat and the learned Sessions Judge, Surat, vide his order dated 6-12-90 dismissed the said Criminal Revision Application on the ground that if the copies will not be provided to the respondents-accused, great injustice will be caused to the respondents-accused. Against the two concurrent orders passed by the Courts below, the petitioner has preferred this Criminal Revision Application.

3. Heard learned counsel for the petitioner Mr. P.G.Desai, learned A.P.P. Mr. M.R.Marshal for the respondent No.1. at the end of arguments, learned counsel for the petitioner-Corporation has submitted that without entering into the merits and demerits of the case and as a special case he is ready to provide copies to the respondent Nos. 1 to 6 as directed by the Court below with a condition that it should not be treated as precedent. Therefore, in view of the above, without entering into the merits and demerits of the case, the petition is required to be rejected.

4. For the foregoing discussion, this petition is rejected. The order dated 6-12-90 passed by the learned Sessions Judge, Surat, in Criminal Revision Application No.77 of 1989 confirming the order passed by the learned J.M.F.C. (Municipal) below Exh.5 in Municipal Case No. 288 of 1989 is hereby quashed and set aside. Rule discharged. Interim relief stands vacated. No order as to costs. This order should not be treated as a precedent.

30-6-2000 (R.P.Dholakia, J.)

*mithabhai